



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 162

[Docket No. USCG-2012-0952]

RIN 1625-AB95

Inland Waterways Navigation Regulation: Sacramento River,
CA

AGENCY: Coast Guard, DHS.

ACTION: Direct final rule; request for comments.

SUMMARY: By this direct final rule, the Coast Guard is removing the Decker Island restricted anchorage area in the Sacramento River. The restricted anchorage area was needed in the past to prevent non-government vessels from transiting through or anchoring in the United States Army's tug and barge anchorage zones. The United States Army relinquished control of the island in 1975, and the restricted anchorage area is no longer necessary.

DATES: This rule is effective [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless an adverse comment, or notice of intent to submit an adverse comment, is either submitted to our online docket via

<http://www.regulations.gov> on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or reaches the Docket Management Facility by that date. If an adverse comment, or notice of intent to submit an adverse comment, is received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], we will withdraw this direct final rule and publish a timely notice of withdrawal in the Federal Register.

ADDRESSES: You may submit comments identified by docket number USCG-2012-0952 using any one of the following methods:

- (1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

- (2) Fax: 202-493-2251.

- (3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- (4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION

section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, e-mail or call Lieutenant Lucas Mancini, Coast Guard District Eleven; telephone 510-437-3801, e-mail Lucas.W.Mancini@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Public Participation and Request for Comments
 - A. Submitting comments
 - B. Viewing comments and documents
 - C. Privacy Act
 - D. Public meeting
- II. Regulatory Information
- III. Basis and Purpose
- IV. Discussion of the Rule
- V. Regulatory Analyses
 - A. Regulatory Planning and Review
 - B. Small Entities
 - C. Assistance for Small Entities
 - D. Collection of Information
 - E. Federalism
 - F. Unfunded Mandates Reform Act
 - G. Taking of Private Property
 - H. Civil Justice Reform
 - I. Protection of Children
 - J. Indian Tribal Governments
 - K. Energy Effects
 - L. Technical Standards
 - M. Environment

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments

received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

A. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0952), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and type "USCG-2012-0952" in the "Search" box and click "Search." On the line for this docket, click "Comment." If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the

comment period.

B. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type "USCG-2012-0952" and click "Search." If you do not have access to the internet, you may also view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

D. Public meeting

We do not now plan to hold a public meeting. But, you may submit a request for a public meeting to the docket

using one of the methods specified under ADDRESSES. In your request, explain why you believe a public meeting would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

II. Regulatory Information

We are publishing this direct final rule under 33 CFR 1.05-55 because we do not expect an adverse comment on removal of this unused anchorage. This rule would remove a restriction that is not currently needed or enforced. If no adverse comment or notice of intent to submit an adverse comment is received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], this rule will become effective as stated in the DATES section. In that case, approximately 30 days before the effective date, we will publish a document in the Federal Register stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if we receive an adverse comment or notice of intent to submit an adverse comment, we will publish a document in the Federal Register announcing the withdrawal of all or part of this direct final rule. If an adverse comment applies only to part of this rule (e.g., to an amendment, a paragraph, or a section) and it is possible to remove that part without

defeating the purpose of this rule, we may adopt, as final, those parts of this rule on which no adverse comment was received. We will withdraw the part of this rule that was the subject of an adverse comment. If we decide to proceed with a rulemaking following receipt of an adverse comment, we will publish a separate notice of proposed rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered "adverse" if the comment explains why this rule or a part of this rule would be inappropriate, including a challenge to its underlying premise or approach, or would be ineffective or unacceptable without a change.

III. Basis and Purpose

The purpose of this rule is to remove 33 CFR 162.205(c) because the restricted anchorage described in that paragraph has not been needed or enforced since the United States Army vacated Decker Island in 1975. The authority to conduct this rulemaking is found in 33 U.S.C. 1231.

IV. Discussion of the Rule

Prior to 1953 the United States Army acquired 114.02 acres of Decker Island. The Army used the land for boat landing and storage activities. The purpose of 33 CFR 162.205(c) was to keep vessels and other craft not

associated with the United States government from navigating or anchoring within 50 feet of any moored government vessel in the area. In 1974 the United States Army began to vacate Decker Island, officially terminating its lease in January of 1975. With the Army's release of the 114.02 acres of Decker Island the intended use of the restricted anchorage was no longer needed. We believe that no member of the public will be adversely affected by removal of the restriction. This rule will update the inland waterways navigation regulations by removing the Decker Island restricted anchorage.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. For the reasons stated in section IV., "Discussion of the Rule," this rule does not impose any

additional costs on the public or government.

B. Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. However, when an agency is not required to publish an NPRM for a rule, the RFA does not require an agency to prepare a regulatory flexibility analysis. The Coast Guard was not required to publish an NPRM for this rule for the reasons stated in section II., "Regulatory Information," and therefore is not required to publish a regulatory flexibility analysis.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult Lieutenant Lucas Mancini via the "ADDRESSES" section of the rule. The Coast Guard will not retaliate against small entities that question or complain about this rule or any

policy or action of the Coast Guard.

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do

discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on

the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable

law or otherwise impractical. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2-1, paragraph (34)(f) of the Instruction. This rule involves removal of the restricted anchorage area at Decker Island in the Sacramento River. Under figure 2-1, paragraph (34)(f) of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 162

Navigation (water) and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 162 as follows:

PART 162 - INLAND WATERWAYS NAVIGATION REGULATIONS

1. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.1.

2. In § 162.205, remove paragraph (c) consisting of the paragraph heading and paragraphs (c)(1) and (c)(2).

Dated: January 13, 2013.

K. L. Schultz
Rear Admiral, U.S. Coast Guard
Commander, Eleventh Coast Guard District

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